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SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

Sept. 13, 2004

Elizabeth Goodpaster, Esq.
Minnesota Center for Environmental Advocacy
26 East Exchange Street
Suite 206
Saint Paul, MN 55101-1667

Re: Finance Docket No. 33407, Dakota, Minnesota & Eastern Railroad Corp.,
Powder River Basin Expansion Project

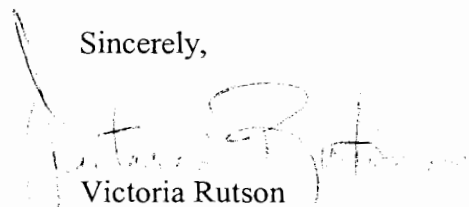
Dear Ms. Goodpaster:

I have received your letter of August 27, 2004, requesting that the Board's Section of Environmental Analysis (SEA) initiate a scoping process for the Supplemental Environmental Impact Statement ("Supplement") that SEA is preparing pursuant to the court remand in Mid States Coalition for Progress v. STB, 345 F.3d 520 (8th Cir. 2003).

As you may know, the regulations of the President's Council on Environmental Quality implementing NEPA do not require scoping for a supplement. See 40 CFR 1502.9(c)(4) ("Agencies shall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft and final statement unless alternative procedures are approved by the Council"). Moreover, the court's remand in this case was narrow, and the court expected that on remand the Board "will quickly address those few matters that we have identified as requiring a second look, and will come to a well informed and reasonable conclusion." 345 F.3d at 556.

The Board intends to comply with the court's remand as faithfully, fairly, and expeditiously as possible. Both a Draft Supplement and a Final Supplement will be issued. Thus, as part of the process, there will be ample opportunity at the appropriate time for public review and comment on all aspects of the supplemental analysis, including the methods and assumptions used.

Sincerely,



Victoria Rutson
Chief

Section of Environmental Analysis